

MINUTES OF THE  
CURRENT USE BOARD  
Regular Board Meeting

**Approved as written**

**DATE:** October 28, 2019

**LOCATION:** Department of Revenue Administration – Training Room, 109 Pleasant Street, Concord, NH

**BOARD MEMBERS:**

Senator Ruth Ward ~ *Excused*

Representative Tim Josephson ~ *Excused*

Jon Wraith, Dean, College of Life Sciences and Agriculture ~ *Excused*

Shawn Jasper, Commissioner, NH Department of Agriculture, Markets and Food ~ *Excused*

Rick Evans, NHDRA Commissioner Designee, NHDRA

Susan Francher, Commissioner Designee, NHDNCR, Division of Forests and Lands

Barbara Richter, NH Conservation Commission

Glenn Normandeau, Commissioner, NH Fish & Game ~ *Excused*

Jonathan Rice, Assessing Official, City

Andrea Lewy, Assessing Official, Population >5,000

Norm Bernaiche, Assessing Official, Population <5,000

Susan Bryant-Kimball, Forest Landowner

Tom Thomson, Public Member

Chuck Souther, Chair, Public Member, Agriculture

**MEMBERS of the PUBLIC:**

Phil Bodwell, NHDRA

James Gerry, NHDRA

Rob Johnson, NH Farm Bureau

Matt Leahy, Forest Society

Sam Greene, NHDRA

Rusty Keith

Jasen Stock, NH Timber Owners Association

Chair Souther convened the meeting of the Current Use Board at 1:12 p.m. Introductions of the Board followed.

**Minutes**

Mr. Evans ***motioned to accept the minutes of the July 30, 2019, regular board meeting***; Ms. Bryant-Kimball ***seconded the motion***. Mr. Bernaiche requested confirmation relating to the proprietary designation of the current use model that the DRA's legal staff has deemed the information proprietary but the Attorney General has not offered an opinion. Mr. Evans confirmed that was correct. The following will be deleted from page 4, paragraph 4, line 4 "...and confirmed by the Attorney General's Office..." No further discussion. Chair Souther called the motion to accept the minutes of July 30, 2019, as amended. ***Motion passed unanimously.***

Ms. Francher ***motioned to accept the minutes of the October 3, 2019, Forestry Subcommittee meeting***; Mr. Thomson ***seconded the motion***. No discussion. Chair Souther called the motion to accept the minutes of the October 3, 2019 subcommittee meeting, as written. ***Motion passed unanimously***

## Forestry Subcommittee Report

Ms. Francher distributed handouts including a memo with recommendations and supporting documentation. She summarized the model output indicating the proposed rates resulted in a slight increase in both forest land and forest land with documented stewardship categories by a range of 3.7% - 6% and that the 40% adjustment was used to calculate the forest land with documented stewardship. The information also included the FIA annual reporting of state-wide growth rates, USDA forest inventory and analysis data and the discount rate used in the model.

The ranges are calculated by taking 20% plus and minus from the midpoint of each category to create the high and low values. Also provided are the current use forest land rates from 2011 which illustrate the changes in the rates throughout the gradual change from the old model to the new model.

Also discussed at the subcommittee meeting was stumpage pricing information and needed changes with regards to how some of the species including Aspen, Basswood, Beech, White Oak and Spruce and Fir, are grouped together. There will be adjustments made over the following year to the groupings for the calculation of the stumpage prices.

## Public Comments

Bradford Keith, Lyme resident, distributed a document to the Current Use Board for their consideration pertaining to the responsibility of establishing the current use rates for 2020. He then read his comments into the record:

*“RSA 79-A:4 I. states that it shall be the duty of the current use board to establish the schedule of criteria of the current use values. Presumably, to encourage landowners to allow recreational access, RSA 79-A:4 II. stipulates that the current use values be reduced by 20% for land which is open 12 months a year to public recreational use. The opening paragraph of RSA 79- A: 1 clarifies that the legislature’s intent to encourage and not require management practices on open space lands under current use assessment. It has been this board’s practice to reduce forest land the current use values by 40% for lands included in a qualified stewardship plan.*

*As has been publicly stated, that the “model” used to establish the proposed forest land current use assessment ranges is Department of Revenue Administration (DRA) proprietary information. And as such, it is a dereliction of this board’s duty to simply accept and rubber stamp current use values that are not established by this board. If the legislature wanted the DRA to establish the current use rates, the law would so direct.*

*The proposed forest land assessment rates represent an average 97-98% reduction from the appraised value of open space land. This excessive level of discount virtually reduces the value of this current use land to tax exempt status. Not only are they indefensible without access to the “model” employed, they are far exceed the expectation of what would reasonably “encourage” landowners not to develop the open space land. Furthermore, this level of discount reduces the legislature’s encouragement of the 20% additional recreational discount to less than .16 % that’s (20% of 2-3%) remaining after the 98% discount. This is little motivation for landowners to deal with the potential burdens of allowing public access to their land. Likewise, per the legislature’s stated intent, the board’s 40% additional discount to encourage stewardship translates to a 1-1.5% effective discount. Again, this is hardly a sufficient financial incentive to cover the cost of a stewardship plan.*

*As the property tax discounts afforded current use landowners represent tax expenditures paid for by New Hampshire property taxpayers, this power and duty, to establish current use assessment rates, bestowed upon this board, must be taken seriously and not delegated. Any proposed assessment rates must be consistent with legislative intent and direction and most importantly be publicly defensible.*

*I firmly object to the adoption of the forest land assessment ranges as proposed and ask the board to do its own work to establish assessment rates for open space land consistent with the law and the legislatures stated intent. Thank you."*

Mr. Stock, representing the NH Timber Owners Association, offered that they feel the stumpage rates are reasonably consistent with some of the market trends they have seen. He added they have full confidence and faith in the current use program and that it does, in fact, assess property within the legislative intent which is the productive capability of the land and not its ad valorem value.

Mr. Thomson restated the importance of the process that created a constitutional amendment and this program to protect the State's land. He added this Board did its job; it followed all the necessary actions to develop this model which began with a subcommittee made up of Board members and public members; an almost 5-year process to develop and put in place, and a process that included four public hearings and no pushback. Ms. Francher added the development of the model was done with the oversight of the full Board and therefore was not created without the Board's input; it was ultimately their approval to use this model to assist in the establishment of the forestry rates.

Mr. Bernaiche reiterated his interest in having legal counsel explain why the model is proprietary. He believes the Board needs to be as transparent as possible about the development of the rates and offered that there could be functional errors within the model that are unknown due to not understanding the information that goes into the formula and how it works. It would be helpful to have an explanation on the proprietary nature of the formula.

Ms. Francher ***moved to accept the following proposed forestry values for tax year 2020 and bring to the public forums to receive public comment:***

**Forest Land Category**

**Forest Land with Documented Stewardship**

White Pine \$122 - \$183  
Hardwood \$61 - \$91  
All other \$39 - \$59

White Pine \$73 - \$110  
Hardwood \$36 - \$55  
All other \$24 - \$35

Ms. Bryant-Kimball ***seconded the motion.*** Mr. Thomson requested the information provided at this meeting be available at the public at the forums. No further discussion. Chair Souther called the motion. ***Motion passed unanimously.***

**Farm Land Assessment Range**

A brief discussion followed about the delay in receiving the farm land assessment data from UNH due to unanticipated events and the several months project necessary to get the model used to determine the range up and running again. It was suggested to bring the current rates to the public forums and if new information became available, it could be considered prior to rulemaking. It was also suggested that the Board become more proactive in attaining this information in the future and to make sure all the guidelines are being met.

Mr. Bernaiche ***motioned to bring the Farm Land assessment range of \$25 - \$425 to the public forums***; Mr. Thomson ***seconded the motion***. No further discussion. Chair Souther called the motion. ***Motion passed unanimously.***

### **Wetland and Unproductive Assessment**

Ms. Francher stated this assessment can be no more than the lowest in the forest all other category, which would be \$24. Ms. Francher ***moved that the proposed assessment for the unproductive land and wetland categories be \$24 per acre and be presented at the public forums***; Mr. Evans ***seconded the motion***. No further discussion. Chair Souther called the motion. ***Motion passed unanimously.***

### **Rules Update**

Ms. Derosier reported that the Cub 100, 200 and 300 rules changes were adopted on August 21, 2019, by the Chairman of the Board and they are currently in the camera-ready process. This means the Department reviews the rules for accuracy to make sure all of the changes have been implemented and the Chairman certifies they are complete. Once that happens, the rules will be returned to Administrative Services to be placed on the Administrative Rules website.

### **Handbook Update**

Ms. Derosier reported that Ms. Webb has resigned her position on the Board due to taking another position and the status of the Commissioner's position is unknown at this time. A draft of the handbook is ready and once the rules are posted, the handbook will be updated and placed on the Department's website. It will again be updated in April with the newly adopted assessment ranges.

Ms. Richter requested additional information be added to the handbook describing the process of calculating and approving the assessment ranges. Ms. Lewy stated this did not come up during the subcommittee discussions but she thinks it is a good idea because there has been a lot of conversation about it. Chair Souther stated the intent of the subcommittee was to make the handbook more user-friendly and that information would be helpful to have. It was suggested the subcommittee meet to look at that. No meeting was scheduled at this time.

### **2019 Public Forums**

Lancaster – Tuesday, November 19, 2019, at 6:00 p.m.  
North Country Resource Center

New London – Wednesday, November 20, 2019, at 6:00 p.m.  
Town Hall

Concord – Thursday, November 21, 2019, at 1:00 p.m. - Followed by a regular board meeting.  
Department of Revenue Administration

### **Subcommittee Update**

A brief discussion followed about the items on the task list including the lake water body issue and defining contiguous lots; conservation easements requiring a PA-60 application versus easements in current use and when a land use change tax applies; and clarifying existing rights-of-way with applicable "grandfathered status" prior to the statutory change. Mr. Bernaiche indicated he would like to present the water body and contiguous lot issue to the assessors to see what their interpretation of it is to formulate a working proposal of the various

situations. The current members of the subcommittee are Chair Souther, Mr. Bernaiche, Mr. Thomson and Ms. Lewy. Chair Souther stated a meeting will be scheduled in the near future.

Mr. Evans ***motioned to go into non-public session pursuant to RSA 91-A:3, II***; Ms. Richter ***seconded the motion***. Chair Souther called the motion. No discussion. ***Motion passed unanimously***.

Chair Souther adjourned the regular board meeting at 2:05 p.m.

Respectfully Submitted, Stephanie Derosier  
NH Department of Revenue Administration – Municipal and Property Division

Documentation relative to the Current Use Board may be submitted, requested or reviewed by:

Telephone: (603) 230-5096

Facsimile: (603) 230-5947

E-mail: [cub@dra.nh.gov](mailto:cub@dra.nh.gov)

Web: <http://revenue.nh.gov/current-use>

In person at 109 Pleasant Street, Concord

In writing to:

NH Department of Revenue Administration

Current Use Board

PO Box 487

Concord, NH 03302-0487